

Appl. No.: 10/780,401
Amdt. dated 02/09/2006
Reply to Office action of November 14, 2005

Amendments to the Drawings:

Please add New Drawing Sheet after Drawing Sheet 2 of 2 of the previously filed drawings. The New Drawing Sheet includes new Figure 5, which is similar to Figure 4 but includes the desiccant described on page 7, line 30 to page 8, line 5 of the specification. Accordingly, no new matter is added.

Attachment: 1 New Drawing Sheet

REMARKS/ARGUMENTS

This amendment is responsive to the Office Action dated November 14, 2005. Applicant would like to thank the Examiner for a timely and thorough review of the above-referenced patent application. Claims 1-22 were previously pending in the application. Claims 1-22 are rejected. Applicant has amended Claims 1, 10, and 18 to more clearly define the invention, as explained more fully below. Applicant has also canceled Claims 3-6. It is respectfully submitted that, in light of the arguments and claim amendments, all of the claims are now in condition for allowance.

Objection to the Drawings

The Office Action objected to the drawings under 37 CFR 1.83(a) as based upon the recitation of a desiccant in Claims 8 and 15. Applicant has amended the drawings to include a new Figure 5, which illustrates a desiccant incorporated into the domed portion as recited in Claims 8 and 15. Support for the new Figure 5 is provided by at least Figure 4 and line 30, page 7 to line 5, page 8 of the specification. The new Figure 5 is provided in the Appendix. Accordingly, Applicant respectfully requests that the objection to the drawings be withdrawn.

Rejections Under 35 USC § 103(a) As Being Unpatentable over Dischler '934 Patent in view of Castillo '526 Patent

The Office Action rejected Claims 10, 11, 14, and 16 under 35 USC 103(a) as being unpatentable over U.S. Patent No. 6,564,934 to Dischler ("the Dischler '934 patent") in view of U.S. Patent No. 6,412,526 to Castillo ("the Castillo '526 patent"). To the extent that these rejections would be applied against the claims as amended, Applicant respectfully traverses.

The Dischler '934 patent discloses a container lid **12** that includes a dispenser system of multiple blister dispensers **24** that, when pressed down, rupture a friable layer **22** to release an active agent **20**. One embodiment of the Dischler '934 patent discloses a beverage lid **100** with blisters **104-107** and with a crosscut **108** that "penetrates the recessed land **18**, but not the friable barrier **22**." Col. 8, lines 24-25. Applicant has amended Claim 10, from which Claims 11, 14,

and 16 depend, to include the recitation of a drinking aperture that “is located radially outward of the membrane such that the drinking aperture is unobstructed by the membrane while the membrane is removably attached to the overcap.” The Dischler ‘934 patent fails to disclose or suggest such an unobstructed drinking aperture.

Similarly, the Castillo ‘526 patent discloses multiple embodiments of a removable container cap having sealed sub-container bodies within the cap that store ingredients that, once unsealed, may be mixed with the fluid in the container. The drinking aperture of the container is obstructed by the cap and the sealed sub-container bodies within the cap. Therefore, the Castilla ‘526 patent fails to disclose or suggest a drinking aperture unobstructed by a membrane removably attached to the cap, as recited in amended Claim 10. For at least this reason, Applicant respectfully submits that the Dischler ‘934 patent in view of the Castilla ‘526 patent fails to disclose or suggest an overcap with a drinking aperture unobstructed by a membrane removably attached to the overcap, as recited in amended Claim 10, from which Claims 11, 14, and 16 depend. Accordingly, Applicant respectfully requests that the rejections of Claims 10, 11, 14, and 16 be withdrawn.

Rejections Under 35 USC § 103(a) As Being Unpatentable over Dischler ‘934 Patent in view of Castillo ‘526 Patent and further in view of Shrader ‘840 Patent

The Office Action rejected Claims 1-4, 7, 9, 17-20, and 22 under 35 USC 103(a) as being unpatentable over the Dischler ‘934 patent in view of the Castillo ‘526 patent and further in view of U.S. Patent No. 6,311,840 to Shrader (“the Shrader ‘840 patent”). To the extent that these rejections would be applied against the claims as amended, Applicant respectfully traverses.

As discussed above, the Dischler ‘934 patent and the Castilla ‘526 patent fail to disclose or suggest an overcap with a drinking aperture unobstructed by a membrane removably attached to the overcap, as recited in amended Claims 1, 10, and 18, from which Claims 2, 7, and 9; Claim 17; and Claims 19, 20, and 22 depend, respectively. The Shrader ‘840 patent, which discloses a container 40 with apertures 41a-41m that must be punctured by a drinking straw 44, also fails to disclose or suggest a drinking aperture unobstructed by a membrane. For at least this reason, Applicant respectfully submits that the Dischler ‘934 patent in view of the Castilla ‘526

patent and in further view of the Shrader '840 patent fails to disclose or suggest an overcap with a drinking aperture unobstructed by a membrane removably attached to the overcap, as recited in amended Claims 1, 10, and 18, from which Claims 2, 7, and 9; Claim 17; and Claims 19, 20, and 22 depend, respectively. Accordingly, Applicant respectfully requests that the rejections of Claims 1, 2, 7, 9, 17-20, and 22 be withdrawn.

Rejections Under 35 USC § 103(a) As Being Unpatentable over Dischler '934 Patent in view of Castillo '526 Patent and further in view of Shrader '840 Patent and Reidinger et al. '860 Patent

The Office Action rejected Claims 5, 6, 12, 13, and 21 under 35 USC 103(a) as being unpatentable over the Dischler '934 patent in view of the Castillo '526 patent and further in view of the Shrader '840 patent and U.S. Patent No. 6,311,860 to Reidinger et al. ("the Reidinger '860 patent"). To the extent that these rejections would be applied against the claims as amended, Applicant respectfully traverses.

As discussed above, the Dischler '934 patent, the Castilla '526 patent, and the Shrader '840 patent fail to disclose or suggest an overcap with a drinking aperture unobstructed by a membrane removably attached to the overcap, as recited in amended Claims 10 and 18, from which Claims 12 and 13 and Claim 21 depend, respectively. The Reidinger '860 patent, which discloses a lid with a sealing member 60 that covers a recessed well 44 that includes an opening 52 for receiving a straw, also fails to disclose or suggest a drinking aperture unobstructed by a membrane. For at least this reason, Applicant respectfully submits that the Dischler '934 patent in view of the Castilla '526 patent and in further view of the Shrader '840 patent and the Reidinger '860 patent fails to disclose or suggest an overcap with a drinking aperture unobstructed by a membrane removably attached to the overcap, as recited in amended Claims 10 and 18, from which Claims 12 and 13 and Claim 21 depend, respectively. Accordingly, Applicant respectfully requests that the rejections of Claims 12, 13, and 21 be withdrawn.

Rejections Under 35 USC § 103(a) As Being Unpatentable over Dischler '934 Patent in view of Castillo '526 Patent and further in view of Shrader '840 Patent, Reidinger et al.

'860 Patent and Cullen '188 Patent

The Office Action rejected Claims 8 and 15 under 35 USC 103(a) as being unpatentable over the Dischler '934 patent in view of the Castillo '526 patent and further in view of the Shrader '840 patent, the Reidinger '860 patent and U.S. Patent No. 3,722,188 to Cullen ("the Cullen '188 patent"). To the extent that these rejections would be applied against the claims as amended, Applicant respectfully traverses.

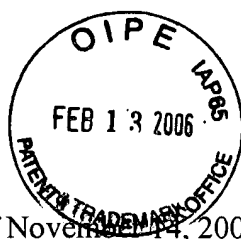
As discussed above, the Dischler '934 patent, the Castilla '526 patent, the Shrader '840 patent, and the Riedinger '860 patent fail to disclose or suggest an overcap with a drinking aperture unobstructed by a membrane removably attached to the overcap, as recited in amended Claims 1 and 10, from which Claim 8 and Claim 15 depend, respectively. The Cullen '188 patent, which discloses a container with no drinking aperture but with a desiccant incorporated therein, also fails to disclose or suggest a drinking aperture unobstructed by a membrane. For at least this reason, Applicant respectfully submits that the Dischler '934 patent in view of the Castilla '526 patent and in further view of the Shrader '840 patent, the Reidinger '860 patent, and the Cullen '188 patent fails to disclose or suggest an overcap with a drinking aperture unobstructed by a membrane removably attached to the overcap, as recited in amended Claims 1 and 10, from which Claim 8 and Claim 15 depend, respectively. Accordingly, Applicant respectfully requests that the rejections of Claims 8 and 15 be withdrawn.

CONCLUSION

In view of the foregoing remarks, Applicant respectfully submits that all of the claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. Examiner Bui is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper.

Appl. No.: 10/780,401
Amdt. dated 02/09/2006
Reply to Office action of November 14, 2005



However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

Keith A. Roberson
Registration No. 52,171

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA-22313-1450, on the date shown below.

Tamara Stevens

Date